

**Request for Reconsideration:**

Claims 1-16 are pending in this application. Applicant acknowledges with appreciation that the Examiner indicates that claims 11-16 contain allowable subject matter. Nevertheless, Applicant respectfully disagrees with the outstanding objections and rejections to the pending claims and respectfully requests that the Examiner reconsider those objections and rejections in view of the following remarks. No fees are due as result of this submission. However, in the event of any variance between the fees determined by Applicant and the fees determined by the U.S. Patent and Trademark Office, please charge such variance to the undersigned's Deposit Account No. 02-0375.

**Remarks:**

1. Objections and Rejections.

Applicant acknowledges with appreciation that the Examiner indicates that claims 11-16 contain allowable subject matter and would be allowable if rewritten in independent form to include the limitations of their base claim and any intervening claims. Nevertheless, claims 1-10 stand rejected under 35 U.S.C. § 102(b), as allegedly anticipated by U.S. Patent No. 4,398,612 to Mikami *et al.* ("Mikami"). Moreover, claim 4 stands rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Mikami in view of U.S. Patent No. 5,613,590 to Simionato. Applicant respectfully disagrees.

2. Anticipation Rejections.

As noted above, claims 1-10 stand rejected as allegedly anticipated by Mikami. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. . . . 'The identical invention must be shown in as complete detail as is contained in the . . . claim.'" MPEP 2131 (emphasis added; citations omitted). In view of the following remarks, Applicant respectfully disagrees with the Examiner's anticipation rejections based on Mikami.

With respect to claims 1-10, the Office Action contends that Mikami discloses each and every element of these claims. In particular, with respect to claim 1, the Office Action

contends that Mikami discloses “a rotation drive for rotating the dispensing paths (3).” Office Action, Page 2, Lines 14-15. Applicant respectfully disagrees.

Referring to Mikami’s **Fig. 1**, Mikami describes “a conically shaped dispersion table 1 is fixed on an electromagnetic vibrator 2 and adapted to perform spiral reciprocating vibratory motion. Alternatively, the dispersion table 1 may be designed to rotate in one direction in which case an electric motor may be used instead of the vibrator 2.” Mikami, Column 4, Lines 1-6 (emphasis added). Thus, Mikami describes two possible movements for its dispersion table 1. First, a “spiral reciprocating vibratory motion” generated by vibrator 2 which is mounted on support plate 10. Second, “rotat[ion] in one direction” generated by a motor (not shown) which used instead of vibrator 2. Thus, dispersion table 1 may be reciprocated or rotated depending upon the device on which it is mounted, but in either case, that device is mounted on support plate 10.

Mikami further states that “[a] plurality of feed troughs 3 are radially arranged around the outer periphery of the dispersion table 1, with their lower portions disposed under and out of contact with the dispersion table 1. . . . An electromagnetic vibrator 7 is provided for each feed trough 3 and has the associated feed trough 3 fixed thereto. . . . A round support plate 10 is positioned over a frame 11 by a plurality of legs 12 erected on and fixed to the frame 11 and has the electromagnetic vibrators 2 and 7 mounted thereon.” Mikami, Column 4, Lines 6-32. Mikami does not describe (or even suggest) the rotation of feed troughs 3. Instead, Mikami describes each of troughs 3 fixed to an electromagnetic vibrator 7, and vibrators 2 and 7 separately fixed to support plate 10. Mikami, **Fig. 1**. In addition, Mikami specifically distinguishes between the “spiral reciprocating vibratory motion [of dispersion table 1], by the centrifugal force due to the twist reciprocating vibratory motion of the electromagnetic vibrator 2” and the inclines linear reciprocating vibratory motion” of troughs 3. Mikami, Column 4, Lines 58-65. Further, as noted above, support plate 10 is positioned over frame 11 by a plurality of legs 12. Thus, Applicant maintains that not only does Mikami not disclose the rotation of troughs 3, given the structures depicted in **Fig. 1**, rotation of troughs 3 would appear to require the rotation of frame 11 - something which is neither disclosed nor suggested by Mikami.

In view of the foregoing remarks, Applicant maintains that the Office Action fails to demonstrate that Mikami discloses “a rotation drive for rotating the one or more dispensing paths,” as described in the sole independent claim, claim 1, of the above-referenced patent

application. Because each and every element as set forth in Applicant's claim 1 is not found, either expressly or inherently described, in Mikami, the Office Action fails to demonstrate that Mikami anticipates Applicant's claim 1 or claims 2-10 which depend therefrom. Therefore, in view of the foregoing remarks, Applicant respectfully requests that the Examiner to withdraw the anticipation rejections of claims 1-10.

3. Obviousness Rejection.

As noted above, the Examiner rejects claim 4, as allegedly rendered obvious by Mikami in view of Simionato. In order for the Examiner to establish a *prima facie* case of obviousness, at least three criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Examiner. Second, there must be a reasonable expectation of success. Third, the prior art references must disclose or suggest all the claim elements. MPEP 2143.

As noted above, Mikami fails to disclose at least one element of Applicant's invention, as described in claim 1. The Office Action does not assert that this missing element is disclosed or suggested by Simionato. Thus, Applicant maintains that Mikami in view of Simionato fails to disclose or suggest all of the elements of claim 4, and that the Office Action fails to establish a *prima facie* case of obviousness with respect to claim 4. In addition, claim 4 is dependent from independent claim 1 via intervening claim 3. "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." MPEP 2143.03 (citations omitted). Because claim 4 depends directly from claim 3 and indirectly from claim 1, if Applicant overcomes the anticipation rejection of claim 1 (or of claim 3), claim 4 is allowable. In view of the foregoing remarks with respect to claim 1, Applicant maintains that the Office Action fails to demonstrate that claims 1 or 3 is anticipated by Mikami. Therefore, Applicant respectfully requests that the Examiner to withdraw the obviousness rejection of claim 4.

Conclusion:

Applicant maintains that the above-captioned patent application now is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that

the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicant's representative, we would welcome the opportunity to do so.

Respectfully submitted,

BAKER BOTTS L.L.P.

Dated: November 23, 2005

By:

James B. Arpin

Registration No. 33,470

Baker Botts L.L.P.  
The Warner, Suite 1300  
1299 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2400  
(202) 639-7700 (telephone)  
(202) 639-7890 (facsimile)

JBA/djw